IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.3629 of 2004
with
Civil Application No.2986 of 2005

Ganpati Maruti Chambhar
(Holmukhe) since deceased through
his heirs and legals
representativdes
a) Shri Hanmant Ganpati Holmukhe
and others ..Petitioners

vs.

1. Pandurang Ramchandra
Holmukhe and another ..Respondents

Shri R.S.Apte i/b Shri M.S.Lagu for
petitioners
Shri R.V.More for respondent no.1.

CORAM: S.B.MHASE J.
28th March, 2006

P.C.

1. Heard Shri Apte for petitioners and Shri More for respondent no.1.

2. Perused the order passed by the Minister for Revenue on 23rd January, 2004 as also the order dated 4th April, 2003 passed by the Inspector, Land Record, Sangli. The dispute is in respect of block No.1411 of village Tadsar, Taluka Kadegaon (Khanapur) District Sangli. Block no.1411 is shown to be 20 R in the name of Kalu Rama Chambhar. The said block number has been formulated from survey

no.489, Hissa No.4. However, the area of Survey No.489/4 prior to consolidation was 11 R as per the revenue records. Therefore, the area of the said block should have been shown as 11 R. The adjacent land is survey No.489/1-C and the area of the said survey number prior to consolidation was .33 R and it was converted into block no.1674 and that was the land belonging to the petitioners. The land in this block number is sold by the petitioners to the respondent no.1. Thus, respondent no.1 has become the owner of block no.1674 admeasuring 0.33 R the original survey no.489/1C. Thus, it will be evident that the petitioners sold away their land from the said survey number/Gat number and thereafter has preferred the application making a grievance in respect of the area of survey no.489/4 namely block no.1411 which was belonging to Kalu Rama Chambhar. As earlier analysed 9 R land was shown in excess in the said block than its original area as per preconsolidation record. This 9 R land was not taken from any other survey number and was included into block no.1411 while framing consolidation scheme and therefore the result follows that 9 R of land has been shown in excess in the said Gat number. However, since the application

was made by the petitioners after they have sold the land, Inspector of Land Records carried out the correction and thereafter he maintained the area of block no.1411 as 20 R. He deducted the 9 R area from block no.1674 and thus in the name of correction those 9 R are being claimed by the petitioners as belonging to them. On bare analysis of the fact it is found that the case of the petitioners is ill founded because whatever interest they had in the said land they had sold it in favour of the respondents and it is none of the business of the Superintendent of Land Record to deduct the area of 9 R from block no.1674. In fact the record of block No.1411 should have been corrected and the area should have been brought to 11 R instead of 20 R. All these acts of the Inspector of Land Record were challenged by the respondents before the Minister and the Minister has rightly analysed the fact and has set aside the order of the Inspector of Land Record. No doubt there was a clerical mistake in respect of the area of block no.1411. That could have been corrected by showing the area of the said block as 11 R. However, the Inspector of Land Records instead of doing that has modified the area of block no.1674 which was not

permissible to him. In fact for such act the modification of the scheme was necessary. No such modification of the scheme was carried out by the consolidation department. One more aspect is required to be looked into is whether the Superintendent of Land Records is having any authority to correct the clerical mistake in the consolidation scheme. Under sec.33 such a power is with the Consolidation Officer and after framing of the consolidation scheme it is with the Settlement Commissioner and Superintendent of Land Records is incompetent to exercise such a power. All these aspects have been rightly corrected by the Minister for Revenue. Under these circumstances the petition deserves to be rejected and is accordingly rejected.

3. In view of rejection of the petitioner civil application no.2986 of 2005 does not survive and hence the same is also rejected.

(S.B.MHASE J.)